

BEFORE THE
PODIATRIC MEDICAL BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation
against:

SUSAN MARGARET RYAN, D.P.M.

Podiatrist License No. E-4738

Respondent

File No: 500-2018-000786

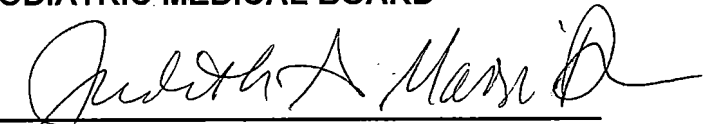
DECISION AND ORDER

The attached Amended Stipulated Settlement and Disciplinary Order is hereby accepted and adopted as the Decision and Order by the Podiatric Medical Board, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on MAY 28 2021

IT IS SO ORDERED APR 29 2021

PODIATRIC MEDICAL BOARD



Judith Manzi, D.P.M., President

1 XAVIER BECERRA
Attorney General of California
2 STEVEN D. MUNI
Supervising Deputy Attorney General
3 VERONICA VO
Deputy Attorney General
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7

8 *Attorneys for Complainant*

10 **BEFORE THE**
11 **PODIATRIC MEDICAL BOARD**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

13 In the Matter of the Accusation Against:

14 **SUSAN MARGARET RYAN, D.P.M.**
15 **3250 Fortune Court**
Auburn, CA 95602

16 **Podiatrist License No. E-4738**

17 Respondent.

Case No. 500-2018-000786

OAH No. 2020080080

**AMENDED STIPULATED
SETTLEMENT AND DISCIPLINARY
ORDER**

18
19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
20 entitled proceedings that the following matters are true:

21 **PARTIES**

22 1. Brian Naslund (Complainant) is the Executive Officer of the Podiatric Medical Board
23 (Board). He brought this action solely in his official capacity and is represented in this matter by
24 Xavier Becerra, Attorney General of the State of California, by Veronica Vo, Deputy Attorney
25 General.

26 2. Respondent Susan Margaret Ryan, D.P.M. (Respondent) is represented in this
27 proceeding by attorney Mark R. Gibson, Esq., whose address is: 1100 Larkspur Landing Circle,
28 Suite 350, Larkspur, CA 94939.

3. On or about July 12, 2007, the Board issued Podiatrist License No. E-4738 to Susan Margaret Ryan, D.P.M. (Respondent). The Podiatrist License was in full force and effect at all times relevant to the charges brought in Accusation No. 500-2018-000786, and will expire on June 30, 2021, unless renewed.

JURISDICTION

4. Accusation No. 500-2018-000786 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on June 9, 2020. Respondent timely filed her Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 500-2018-000786 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 500-2018-000786. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Amended Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

9. Respondent understands and agrees that the charges and allegations in Accusation No. 500-2018-000786, if proven at a hearing, constitute cause for imposing discipline upon her Podiatrist License.

10. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a *prima facie* case with respect to the charges and allegations in paragraph 23, subdivision (a) and (g) contained in Accusation No. 500-2018-000786, a true and correct copy of which is attached as Exhibit A, and that she has thereby subjected her Podiatrist License No. E-4738 to disciplinary action. Respondent hereby gives up her right to contest that cause for discipline exists based on those charges.

11. Respondent agrees that her Podiatrist License No. E-4738 is subject to discipline and she agrees to be bound by the Board's terms as set forth in the Disciplinary Order below. Respondent further understands and acknowledges that failure to complete the Board's terms as set forth below may lead to additional charges alleging unprofessional conduct and the imposition of additional discipline.

12. Respondent agrees and understands that pursuant to Business and Professions Code section 2497.5, she is responsible for the costs of the investigation and enforcement of this case. Respondent shall pay the Podiatric Medical Board the sum of \$15,649.00, payable within thirty-six (36) months of the effective date of the Decision.

RESERVATION

13. The admission made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Podiatric Medical Board or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

CONTINGENCY

14. This stipulation shall be subject to approval by the Podiatric Medical Board. Respondent understands and agrees that counsel for Complainant and the staff of the Podiatric Medical Board may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or her counsel. By signing the stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails

1 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
2 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
3 action between the parties, and the Board shall not be disqualified from further action by having
4 considered this matter.

5 15. The parties understand and agree that Portable Document Format (PDF) and facsimile
6 copies of this Amended Stipulated Settlement and Disciplinary Order, including PDF and
7 facsimile signatures thereto, shall have the same force and effect as the originals.

8 16. In consideration of the foregoing admissions and stipulations, the parties agree that
9 the Board may, without further notice or formal proceeding, issue and enter the following
10 Disciplinary Order:

11 **DISCIPLINARY ORDER**

12 **A. PUBLIC REPRIMAND**

13 IT IS HEREBY ORDERED that Respondent Susan Margaret Ryan, D.P.M., as a holder of
14 Podiatrist License No. E-4738, shall be and hereby is Publicly Reprimanded pursuant to
15 California Business and Professions Code section 2227, subdivision (a), subsection (4). This
16 Public Reprimand, which is issued in connection with Respondent's care and treatment of Patient
17 A, as set forth in Accusation No. 500-2018-000786, is as follows:

18 "In her care and treatment of Patient A, Respondent used an improper billing code to pay
19 for non-billable treatment and failed to modify a progress note from one visit to another"

20 **B. COST RECOVERY**

21 Respondent shall pay \$15,649.00 to the Podiatric Medical Board for the costs of the
22 investigation and enforcement of this case, pursuant to Business and Professions Code section
23 2497.5. Respondent shall pay this amount within thirty-six (36) months of the effective date of
24 the Decision. The filing of bankruptcy of period of non-practice by Respondent shall not relieve
25 the Respondent of her obligation to reimburse the Board for its costs.

26 Failure to pay within the provided time shall constitute general unprofessional conduct and
27 may serve as the grounds for further disciplinary action.

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DATED: April 22, 2021

XAVIER BECERRA
Attorney General of California
STEVEN D. MUNI
Supervising Deputy Attorney General

Veronica Vo

SA2020101146
34992848.docx

Exhibit A

Accusation No. 500-2018-000786

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8 *Attorneys for Complainant*
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10 **BEFORE THE**
11 **PODIATRIC MEDICAL BOARD**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

13 In the Matter of the Accusation Against:

Case No. 500-2018-000786

14 **SUSAN MARGARET RYAN, D.P.M.**
15 **3250 Fortune Court**
Auburn, CA 95602

ACCUSATION

16 **Podiatrist License No. E4738**

17 **Respondent.**
18

19
20 **PARTIES**

21 1. Brian Naslund (Complainant) brings this Accusation solely in his official capacity as
22 the Executive Officer of the Podiatric Medical Board, Department of Consumer Affairs.

23 2. On or about July 12, 2007, the Podiatric Medical Board issued Podiatrist License No.
24 E4738 to Susan Margaret Ryan, DPM (Respondent). The Podiatrist License was in full force and
25 effect at all times relevant to the charges brought herein and will expire on June 30, 2021, unless
26 renewed.

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4. Section 2222 of the Code states:

"The California Board of Podiatric Medicine may order the denial of an application or issue a certificate subject to conditions as set forth in Section 2221, or order the revocation, suspension, or other restriction of, or the modification of that penalty, and the reinstatement of any certificate of a doctor of podiatric medicine within its authority as granted by this chapter and in conjunction with the administrative hearing procedures established pursuant to Sections 11371, 11372, 11373, and 11529 of the Government Code. For these purposes, the California Board of Podiatric Medicine shall exercise the powers granted and be governed by the procedures set forth in this chapter."

“(a) The board may order the denial of an application for, or the suspension of, or the revocation of, or the imposition of probationary conditions upon, a certificate to practice podiatric medicine for any of the causes set forth in Article 12 (commencing with section 2220) in accordance with Section 2222.

2

1 administrative law judge who presided at the hearing shall be present during the board's
2 consideration of the case and shall assist and advise the board."

3 6. Section 2234 of the Code states, in pertinent part:

4 "The board shall take action against any licensee who is charged with unprofessional
5 conduct. In addition to other provisions of this article, unprofessional conduct includes, but
6 is not limited to, the following:

7 "(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting
8 the violation of, or conspiring to violate any provision of this chapter.

9 "(b) Gross negligence.

10 "(c) Repeated negligent acts. To be repeated, there must be two or more negligent
11 acts or omissions. An initial negligent act or omission followed by a separate and distinct
12 departure from the applicable standard of care shall constitute repeated negligent acts.

13 (1) An initial negligent diagnosis followed by an act or omission medically
14 appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.

15 (2) When the standard of care requires a change in the diagnosis, act, or omission
16 that constitutes the negligent act described in paragraph (1), including, but not limited to, a
17 reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs
18 from the applicable standard of care, each departure constitutes a separate and distinct
19 breach of the standard of care.

20 "..."

21 "(f) Any action or conduct that would have warranted the denial of a certificate.

22 "..."

23 7. Unprofessional conduct under Business and Professions Code section 2234 is conduct
24 which breaches the rules or ethical code of the medical profession, or conduct which is
25 unbecoming to a member in good standing of the medical profession, and which demonstrates an
26 unfitness to practice medicine. (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 546,
27 575.)

28 ///

1 8. Section 2266 of the Code states:

2 "The failure of a physician and surgeon to maintain adequate and accurate records
3 relating to the provision of services to their patients constitutes unprofessional conduct."

4 **COST RECOVERY**

5 9. Section 2497.5 of the Code states:

6 "(a) The board may request the administrative law judge, under his or her proposed
7 decision in resolution of a disciplinary proceeding before the board, to direct any licensee
8 found guilty of unprofessional conduct to pay to the board a sum not to exceed the actual
9 and reasonable costs of the investigation and prosecution of the case.

10 "(b) The costs to be assessed shall be fixed by the administrative law judge and shall
11 not be increased by the board unless the board does not adopt a proposed decision and in
12 making its own decision finds grounds for increasing the costs to be assessed, not to exceed
13 the actual and reasonable costs of the investigation and prosecution of the case.

14 "(c) When the payment directed in the board's order for payment of costs is not
15 made by the licensee, the board may enforce the order for payment by bringing an action in
16 any appropriate court. This right of enforcement shall be in addition to any other rights the
17 board may have as to any licensee directed to pay costs.

18 "(d) In any judicial action for the recovery of costs, proof of the board's decision
19 shall be conclusive proof of the validity of the order of payment and the terms for payment.

20 "(e)(1) Except as provided in paragraph (2), the board shall not renew or reinstate
21 the license of any licensee who has failed to pay all of the costs ordered under this section.

22 (2) Notwithstanding paragraph (1), the board may, in its discretion,
23 conditionally renew or reinstate for a maximum of one year the license of any licensee who
24 demonstrates financial hardship and who enters into a formal agreement with the board to
25 reimburse the board within one year period for those unpaid costs.

26 "(f) All costs recovered under this section shall be deposited in the Board of
27 Podiatric Medicine Fund as a reimbursement in either the fiscal year in which the costs are
28 actually recovered or the previous fiscal year, as the board may direct."

FACTUAL ALLEGATIONS

10. Respondent is a podiatrist in Daly City, California. On or about July 13, 2017, Patient A¹ saw Respondent for a consultation regarding a painful bunion, her right foot worse than her left, as well as numbness to the great right toe. During this consultation, Respondent conducted a physical examination with Patient A, but did not notate Patient A's vitals. At this appointment, Respondent also viewed x-rays taken by another doctor. After the examination, Respondent discussed surgical and conservative options to ease Patient A's pain. One of the conservative options consisted of wearing orthotics. Patient A planned to get authorization for orthotics to be casted on the return office visit.

11. On or about November 2, 2017, Patient A returned to Respondent's office with an over-the-counter orthotic she brought in for modification. The medical notes in this entry were the exact same as the ones entered on July 13, 2007, with the exception of two additional sentences. The two sentences read as follows: "She returns to the office with over-the-counter orthotics for modification as her insurance does not pay for custom orthotics" and "orthotics modified medial intrinsic heel 1/8 inch felt, reverse Morton's extension bilateral. Return to the office if no improvement or if condition worsens." Though it was clear this appointment was dedicated to modifying Patient A's orthotics, Patient A's insurance was charged for strapping of the foot or ankle.

12. On or about February 8, 2018, Patient A returned to Respondent's office. The reason for this visit was unclear since the medical note for the visit was copied verbatim from the medical note dated November 2, 2017.

13. On or about May 17, 2018, Patient A returned to Respondent's office for a re-evaluation of the pain to her right and left big toes. The medical notes indicate that Respondent discussed surgical options at this point. Respondent went over a full-page surgical consent and postoperative care plan. Respondent discussed the risks associated with surgery, including the use of anesthesia. Respondent explained that even after surgery, Patient A would still need

¹ To protect the privacy of the patient involved, the patient name has not been included in this pleading. Respondent is aware of the identity of the patient referred herein.

1 custom orthotics to minimize the biomechanical issues that were the cause of Patient A's pain.
2 Respondent answered Patient A's many questions about the surgical procedure. Ultimately,
3 Respondent advised Patient A that unless she had significant pain, the risks of surgery did not
4 outweigh the benefits. Though Respondent recommended custom orthotics, Patient A declined.

5 14. On or about August 7, 2018, Patient A returned to Respondent's office with a
6 complaint of a painful deformity to the great toe region. Patient A did not respond to prior
7 conservative measures that included rest, orthotics, stiff-soled shoes and modifications to daily
8 activity. Respondent gave Patient A two options for surgery: a metatarsal ostectomy² and an
9 exostectomy.³ Ultimately, Respondent recommended an exostectomy due to the fact that Patient
10 A only complained of pain at the end of range of motion of her toe. Respondent provided Patient
11 A with details of the surgery, expected outcomes, and risks and benefits of the surgery.
12 Respondent also provided post-operation instructions. Respondent conducted a full examination
13 of Patient A's feet.

14 15. On or about August 15, 2018, Patient A had surgery. There is a dated and timed
15 consent form signed by Patient A just minutes prior to her surgery time. No complications were
16 noted during surgery. The notes indicate Patient A was given written post-operative instructions,
17 medication, and an appointment for follow-up in one week.

18 16. On or about August 21, 2018, Patient A had her first post-surgical visit with
19 Respondent. Patient A did not complaint of any pain. Respondent examined Patient A's foot and
20 determined there was no evidence of swelling or infection. Respondent placed a sterile dressing
21 on Patient A's foot and instructed Patient A to return in one week. Patient A wanted to exercise
22 her foot but Respondent advised against this until the sutures healed.

23 17. On or about August 28, 2018, Patient A went to Respondent for continued follow-up.
24 On this day, Patient A's sutures were removed and steri-strips were applied. Patient A was
25 progressing enough to be able to transition to a regular shoe and to submerge her foot in water.
26 Patient A was advised to continue wearing orthotics. Respondent recommended physical therapy

27 ² A surgical procedure involving cutting the metatarsal bone of the big toe and realigning
28 the bone to correct a deformity.

³ A surgical removal of a benign growth of new bone on top of existing bone.

1 to improve Patient A's range of motion. Patient A was instructed to return to Respondent as
2 needed.

3 18. On or about November 19, 2018, Patient A filed a complaint with the Medical Board
4 of California against Respondent. Patient A expressed her frustrations with the care, or lack
5 thereof, provided to her by Respondent. Ultimately, Patient A sought treatment from another
6 podiatrist to oversee her recovery.

7 19. On or about August 15, 2019, a Division of Investigation Investigator (DOI
8 Investigator) spoke with Patient A to follow-up on Patient A's complaints. Patient A stated she
9 did not sign a consent form for surgery during any of the pre-operative appointments she attended
10 with Respondent. The only consent form signed was on the day of her actual surgery, August 15,
11 2018. Patient A further explained that she asked Respondent to prescribe a prescription for pain
12 medications but that Respondent was hesitant to sign a prescription. Patient A was also upset by
13 the fact that after beginning her treatment with a physical therapist, an additional suture was
14 located on her foot. Patient A had to go to a different podiatrist to remove that suture since she no
15 longer trusted Respondent to care for her properly.

16 20. On October 25, 2019, a DOI Investigator interviewed Respondent regarding concerns
17 Patient A brought forth about her treatment. Respondent readily discussed the treatment provided
18 to Patient A. With respect to the consent form required for surgery, Respondent admitted she
19 typically waits until the day of surgery to have patients sign consent forms. Respondent stated,
20 "I'm actually really bad about that [having patients sign consent forms in her office]."
21 Respondent was also asked whether she generally takes x-rays of her patients after surgery.
22 Respondent noted it is not customary for her to take post-operative x-rays unless it is indicated.
23 She further described that post-operative x-rays are necessary if patients have issues with trauma,
24 infections, or osteomyelitis. The DOI Investigator informed Respondent that Patient A felt
25 Respondent was hesitant to write a pain prescription for her. Respondent admitted she was indeed
26 hesitant to prescribe opioids because she is "scared to death to prescribe" them.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Gross Negligence)**

3 21. Respondent has subjected her Podiatric License No. E4738 to disciplinary action
4 under sections 2222, 2497, and 2234, subdivision (b), of the Code, in that Respondent committed
5 gross negligence in her care and treatment of Patient A. The circumstances are set forth in
6 Paragraphs 10 through 20, above, which are incorporated herein as if fully set forth here.
7 Additional circumstances are as follows:

8 22. Respondent committed gross negligence in her care and treatment of Patient A for her
9 acts and omissions, including but not limited to, using an improper billing code to pay for non-
10 billable treatment.

11 **SECOND CAUSE FOR DISCIPLINE**

12 **(Repeated Negligent Acts)**

13 23. Respondent has further subjected her Podiatric License No. E4738 to disciplinary
14 action under sections 2227 and 2234, subdivision (c), of the Code, in that Respondent committed
15 repeated negligent acts in her care and treatment of Patient A. The circumstances are set forth in
16 Paragraphs 10 through 20, above, which are incorporated herein as if fully set forth here.

17 24. Respondent was repeatedly negligent in her care of treatment of Patient A for her acts
18 and omissions, including but not limited to, the following:

- 19 (a) Using an improper billing code to pay for non-billable treatment;
20 (b) Failure to obtain an in-office consent form from Patient A prior to surgery;
21 (c) Failure to provide adequate pain medication to the patient during the post-operative
22 period tailored to the need of the patient;
23 (d) Failure to take postoperative x-rays following bone procedures;
24 (e) Failure to take vital signs at first postoperative visit;
25 (g) Failure to schedule a follow-up appointment at a minimum of 4 weeks following
26 removal of sutures; and
27 (g) Failure to modify progress notes from one visit to another.

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1 THIRD CAUSE FOR DISCIPLINE

2 (General Unprofessional Conduct)

3 25. Respondent has further subjected her Podiatric License No. E4738 to disciplinary
4 action under section 2234 in that she has engaged in conduct which breaches the rules or ethical
5 code of the medical profession, or conduct which is unbecoming to a member in good standing of
6 the medical profession, and which demonstrated an unfitness to practice medicine. The
7 circumstances are set forth in paragraphs 10 through 24, above, which are incorporated here by
8 reference as if fully set forth herein.

9 PRAYER

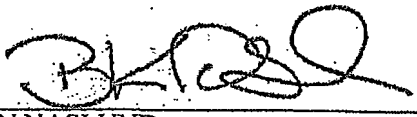
10 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
11 and that following the hearing, the Podiatric Medical Board issue a decision:

12 1. Revoking or suspending Podiatrist License No. E4738, issued to Susan Margaret
13 Ryan, D.P.M.;

14 2. Ordering Susan Margaret Ryan, D.P.M. to pay the Podiatric Medical Board the
15 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
16 Professions Code section 2497.5; and

17 3. Taking such other and further action as deemed necessary and proper.
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20 DATED: JUN 09 2020

21 
22 BRIAN NASLUND
23 Executive Officer
24 Podiatric Medical Board
25 Department of Consumer Affairs
26 State of California
27 Complainant
28

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